

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LUIS A. VAZQUEZ-DIAZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.
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ORDER

21 CV 6757 (VB)

11/16/21

11/16/21
Copies Mailed/Faxed
Chambers of Vincent L. Briccetti

On September 16, 2021, the Court ordered that (i) because petitioner is in federal custody, but not pursuant to a federal judgment of conviction or sentence, it construes petitioner's habeas corpus petition filed under 28 U.S.C. § 2255 as a petition under 28 U.S.C. § 2241; (ii) by November 15, 2021, the Civil Division of the U.S. Attorney's Office for the Southern District of New York shall file an answer or other pleadings in response to the petition; and (iii) petitioner may file reply papers, if any, within thirty days from the date petitioner is served with Respondent's answer. (Doc. #7).

On November 15, 2021, counsel for respondent filed a motion to dismiss the petition under Federal Rule of Civil Procedure 12(b)(1) (Doc. #21), and a certificate of service of the motion and supporting documents on petitioner, also on November 15, 2021. (Doc. #24).

Accordingly, it is HEREBY ORDERED:

Petitioner's reply papers, if any, are due **December 15, 2021**.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purposes of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: November 16, 2021

White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge